

OFFICE OF THE STATE PUBLIC DEFENDER

REFERRAL ISSUES CHECKLIST

Introduction

The intent of this checklist is to assist the attorney in relating information to the mental health expert regarding the specific nature and intent of the referral. Please indicate all of the following issues that are of interest in order to assist in your defense.

No matter the issue, please do not generate or have the expert provide a written report until after you speak with the expert and ascertain whether the report is required and will be helpful to your client.

Referral Issues/Questions

- Please advise whether the client has the capacity to understand the proceedings and to assist counsel.
- It appears that this client may have a mental health defense. Therefore, please review records and provide a summary of the diagnostic information, treatments, and diagnostic impression.
- It appears that this client may have a mental health defense. Therefore, please review records, interview/assess client, and provide a diagnostic impression.
- It appears that this client may have a mental health defense. Therefore, please provide a screening by doing the following:
 - Review records regarding client legal/mental health history
 - Meet with client for a clinical interview
 - Testing as needed to address specified concerns about client indicated by attorney
 - Verbally report results and recommendations to attorney
 - Written report ONLY at the request of attorney
- It appears that this client may have a mental health defense. Therefore, please provide a comprehensive evaluation by doing the following:
 - Review records regarding client legal/mental health history
 - Meet with client for a clinical interview
 - Testing as needed to address specified concerns about client indicated by attorney
 - Verbally report results and recommendations to attorney
 - Written report ONLY at the request of attorney
- Please assess client's competency/fitness to proceed to adjudication (§46-14-103, M.C.A.).

- Please assess whether the client had the capacity “to act with knowledge and purpose” at the time of the alleged offense per §46-14-102 & 301, M.C.A.
- Did the client have the capacity to “appreciate the criminality of his behavior and/or to conform his behavior to the requirement of the law” per §46-14-312, M.C.A.?
- It appears that this client may have a mental health defense relating to sentencing (“appreciate” or “conform” per §§46-14-311 & 312, M.C.A.) Therefore, please provide a diagnostic impression with recommendations regarding placement (e.g. DPHHS v DOC).
- Please ascertain whether the client had the competency to “knowingly and voluntarily” waive his/her Miranda rights?
- Please ascertain whether the client had the capacity to knowingly and voluntarily waive or give consent to whatever law enforcement wanted consent for (e.g. search house, search purse, have car searched etc.)?
- Client was previously assessed via an OPD referral and a more comprehensive examination is indicated to address the indicated item(s).
- Please assess this client’s risk for violence or potential for recidivism.
- Please perform a MSOTA Psychosexual Evaluation.
 - a) Prepare a confidential written report for the defense; or
 - b) Prepare a written report for the court. ¹
- Please perform a Substance Abuse evaluation.
- This is a request for a Civil Commitment/Mental Health Professional Person specific evaluation. ²
- Please perform a neuropsychological evaluation to assess neuropsychological functioning as it relates to the current legal charges.
- Purpose: Research and testimony regarding psychological issues previously identified or specified herein.

¹ In almost all instances, reports prepared for the court at sentencing will be paid for by the court. Please be sure to specify such in your referral request.

² Professional person evaluations are paid for by the county of residence per §53-21-118, M.C.A., and *In the Matter of K.G.F.*

- Court testimony is likely to be necessary in this case. Specifically related to:
 - Expert's recent assessment of the client
 - Testimony on psychological issues relevant to the case

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- Evaluate the suitability for alternative sentencing program of:
 - Specify: _____ (e.g. work release, home electronic monitoring, probation and parole, etc.)

- Evaluate the suitability for pre-adjudication transfer to and/or placement in:
 - Specify: _____ (e.g. home electronic monitoring, substance abuse treatment program, etc.).

- Evaluate diminished capacity issues related to:
 - Specify: _____ (e.g. intoxication, IQ, coercion).